

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

FRANK JOHNSON

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Criminal No. 05-272
Electronically Filed

Order of Court

Pending before this Court are defendant's motions in limine (doc. nos. 36 and 37) and the government's responses thereto (doc. nos. 44 and 45). After careful consideration, it is
HEREBY ORDERED as follows:

- (1) Defendant's motion in limine to redact the words "of the prior Felony Firearms Not to be Carried Without a License," from the indictment, the preliminary and final jury instruction (doc. no. 36), is GRANTED because the nature of the prior felony is not necessary and the prejudicial effect of mentioning the prior felony outweighs its probative value. The Court notes that the government has no objection to the granting of said motion.
- (2) Defendant's motion in limine to preclude all testimony or reference to defendant being involved in or engaging in suspected drug transactions leading up to the subject incident (doc. no. 37), is GRANTED IN PART and DENIED IN PART. The police officers' testimony shall be limited to the general facts that they were patrolling the building for criminal activity and that, while in the processing of making an arrest of defendant, defendant attempted to flee from the scene and dropped a firearm and pack of cigarettes in the process. Any testimony that

defendant was observed selling drugs is more prejudicial than probative, and therefore, it shall be excluded. It is not possible, however, to exclude the testimony that the police officers were attempting to arrest defendant when he fled the scene and dropped his gun, because that testimony is intrinsic to the offense. The parties shall meet and confer to agree on a proper limiting instruction for this testimony. Said limiting instruction shall be filed on or before October 20, 2006.

SO ORDERED this 16th day of October, 2006.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All counsel of record